

Department of Permitting and Inspections

Zoning Division

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MEMORANDUM

To: Development Review Board
From: Mary O'Neil, AICP, Principal Planner
Date: September 7, 2021
RE: 140 Ledge Road; ZP21-611 (Open Gov)

Note: These are staff comments only. Decisions on projects are made by the Development Review Board, which may approve, deny, table or modify any project. THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.

File Number: ZP21-611 (Open Gov)

Zone: RL **Ward:** 6S

Date application accepted: August 11, 2021

Applicant/ Owner: Peter Smiar

Request: Seeking front yard setback variance for renovation/addition. Rear (north) addition, window and door changes, new larger second floor dormer.

Background:

- **Zoning Permit 09-864CA;** replace wooden windows on second floor with fiberglass windows of same style and dimensions. **Denied**, June 2009.
- **Zoning Permit 09-857FC;** replace existing old internal chain link fence with new black aluminum rail fence. June 2009.
- **Zoning Permit 92-385;** construction of 12' x 14' sunroom on front of existing single family home. Project includes reroofing garage. June 1992.
- **Building Permit 76-494;** remodel the second floor into four bedrooms, a bathroom, closets and storage areas. *Zoning Permit issued for the windows to be installed 11.13.1975. (no ZP found.)* November 1975.
- **Electrical Permit B3495;** wire upstairs rooms; 5 rooms electric heat. 30 Boxes, Subpanel, change service to 150 amps. January 1976.

Overview: 140 Ledge Road, constructed in 1923, is uniquely situated on the corner of Ledge Road and Edgewood Drive. Calculating



front yard setbacks (there are two – Ledge and Edgewood) based on abutting houses on the same side of the street presents the challenging situation of a calculated setback on Ledge Road beyond the existing house. (144 Ledge Road is the only abutter on Ledge Road from which a calculation may be made, and it is situated approximately 147’ from the street; while 140 Ledge Road is about 28’.) At present, the proposed addition and dormer enlargement cannot be considered as it would increase the level of non-conformity (structure within the front yard setback). A **Variance** from the calculated Front Yard Setback for Ledge Road is requested to allow the dormer addition and other site changes.

140 Ledge Road was included within the 2005 Historic Sites and Structures Survey of the Prospect Park Middle neighborhood, and was deemed eligible for historic designation. That narrative is attached. For that reason, the standards of Section 5.4.8, Historic Buildings and Sites is included in the Findings.

Recommended motion: Variance approval relative to Front Yard Setback on Ledge Road, and **Certificate of Appropriateness Approval** for the building and dormer addition and related site work per the following Findings and Conditions:

I. Findings

Article 4: Zoning Maps and Districts

Section 4.4.5 Residential Districts

(a) Purpose:

The Residential Districts are intended to control development in residential districts in order to create a safe, livable, and pedestrian friendly environment. They are also intended to create an inviting streetscape for residents and visitors. Development that places emphasis on architectural details and form is encouraged, where primary buildings and entrances are oriented to the sidewalk, and historic development patterns are reinforced. Parking shall be placed either behind, within, or to the side of structures, as is consistent with the district and/or the neighborhood. Building facades designed for parking shall be secondary to the residential aspect of a structure.

1. The Residential Low Density (RL) district is intended primarily for low-density residential development in the form of single detached dwellings and duplexes. This district is typically characterized by a compact and cohesive residential development pattern reflective of the respective neighborhoods’ development history.

(b) Dimensional Standards and Density

Table 4.4.5-3: Residential District Dimensional Standards

RL Zoning District	Max Lot Coverage 35%	Front Setback Average of 2 adjacent lots on both sides +/- 5’	Side Setback 10% of lot width or the average of side yard setback of 2 adjacent lots on both sides. Max required 20”.	Rear Setback 25% of Lot depth. Max required 75’.	Waterfront 75’ from the ordinary high water mark of Lake Champlain and the Winooski River.	Max Height 35’

140 Ledge Road	21% on last approved site plan (1992), 27.8% existing; 28.6% proposed.	A Variance is sought for the front yard setback from Ledge Road to allow alterations in the rear of the house. The project is outside the Front yard setback from Edgewood and therefore compliant.	All proposed renovations meet the required side yard setbacks. A shed on the north meets a required (5' minimum) setback.	As there are two front yards, there are no rear yard setback requirements. Not applicable.	Not applicable.	No change to existing.
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If Variance for Front Yard Setback is approved, Affirmative finding as conditioned.

Article 5: Citywide General Regulations

Section 5.2.1 Existing Small Lots.

Not applicable.

Section 5.2.2 Required Frontage or Access

The parcel has access from Edgewood Drive. **Affirmative finding.**

Section 5.2.3 Lot Coverage Requirements

See Table 4.4.5-3, above.

Section 5.2.4 Buildable Area Calculation

Not applicable.

Section 5.2.5 Setbacks

See Table 4.4.5-3, above.

Section 5.2.6 Building Height Limits

See Table 4.4.5-3, above.

Section 5.2.7 Density and Intensity of Development Calculations

There is no proposed change to the density. The property shall remain a single family home.

Affirmative finding.

Part 3: Non Conformities

There is a pre-existing non-conformity to Front Yard Setback. A Variance is requested to allow for alteration within that required setback.

Sec. 5.4.8 Historic Buildings and Sites

The City seeks to preserve, maintain, and enhance those aspects of the city having historical, architectural, archaeological, and cultural merit. Specifically, these regulations seek to achieve the following goals:

To preserve, maintain and enhance Burlington's historic character, scale, architectural integrity, and cultural resources;

To foster the preservation of Burlington's historic and cultural resources as part of an attractive, vibrant, and livable community in which to live, work and visit;

To promote a sense of community based on understanding the city's historic growth and development, and maintaining the city's sense of place by protecting its historic and cultural resources; and,

To promote the adaptive re-use of historic buildings and sites.

(a) Applicability:

These regulations shall apply to all buildings and sites in the city that are listed, or eligible for listing, on the State or National Register of Historic Places.

140 Ledge Road was included within the Prospect Park / Middle Historic Sites and Structures Survey in 2005. That narrative is attached. As determined to be eligible for historic designation, the following Standards apply:

(b) Standards and Guidelines:

The following development standards, following the Secretary of the Interior's Standards for the Treatment of Historic Properties, shall be used in the review of all applications involving historic buildings and sites subject to the provisions of this section and the requirements for Design Review in Art 3, Part 4. The Secretary of the Interior's Standards are basic principles created to help preserve the distinctive character of a historic building and its site. They are a series of concepts about maintaining, repairing and replacing historic features, as well as designing new additions or making alterations. These Standards are intended to be applied in a reasonable manner, taking into consideration economic and technical feasibility.

- 1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.*

The property was constructed as a residential structure; a use that continues.

- 2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.*

The facades on both the south (Ledge) and west (Edgewood Drive) will maintain features and finishes as originally designed or altered under a 1992 permit. The enlargement of the northerly dormer will not unacceptably alter the historic character of the property.

- 3. Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.*

No conjectural features are proposed. The 1992 addition of a sunroom contributes to the overall integrity of the structure. Dormer alteration/enlargement is a fairly typical adjustments on secondary facades to accommodate changing needs.

4. *Changes to a property that have acquired historic significance in their own right will be retained and preserved.*

See above.

5. *Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.*

There is no alteration to significant and noted building components as defined in the Historic Sites and Structures Survey of 2005. The materials, features, finishes and construction techniques are appropriately retained.

6. *Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials recognizing that new technologies may provide an appropriate alternative in order to adapt to ever changing conditions and provide for an efficient contemporary use. Replacement of missing features will be substantiated by documentary and physical evidence.*

The application is not intended to replace a feature due to failure, but to accommodate the needs of an expanding family. On a secondary façade, such alterations have been received favorably. Proposed window replacement on the second floor will replace windows installed in 1975/76, which are non-historic.

7. *Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.*

No physical or chemical treatments are proposed.

8. *Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.*

No archaeological resources have been identified at this location.

9. *New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale, and proportion, and massing to protect the integrity of the property and its environment.*

Although the proposed dormer is larger than the existing dormer, it is centered on a secondary façade, and sheathed in fiber cement shiplap as differentiation from the existing exterior materials. Larger windows are proposed for the 2nd story, perceivable on the east and west facades; door alteration on the west and east. As noted, 2nd floor windows were replaced in the 70s, so greater flexibility in replacement may be considered.

10. *New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.*

While unlikely it is possible to consider the redevelopment reversible.

Affirmative finding.

Article 6: Development Review Standards

Part 1: Land Division Design Standards

Not applicable.

Part 2: Site Plan Design Standards

Sec. 6.2.2 Review Standards

(a) Protection of Important Natural Features:

There are no important identified natural features affected by the proposal. **Affirmative finding.**

(b) Topographical Alterations:

No topographical alterations are proposed. **Affirmative finding.**

(c) Protection of Important Public Views:

There are no protected public views from or through this parcel. Not applicable.

(d) Protection of Important Cultural Resources:

Burlington's architectural and cultural heritage shall be protected through sensitive and respectful redevelopment, rehabilitation, and infill. Archeological sites likely to yield information important to the city's or the region's pre-history or history shall be evaluated, documented, and avoided whenever feasible. Where the proposed development involves sites listed or eligible for listing on a state or national register of historic places, the applicant shall meet the applicable development and design standards pursuant to Sec. 5.4.8(b).

See Section 5.4.8, above.

(e) Supporting the Use of Renewable Energy Resources:

No part of this application precludes the use of wind, solar, geothermal, or other renewable energy resource. **Affirmative finding.**

(f) Brownfield Sites:

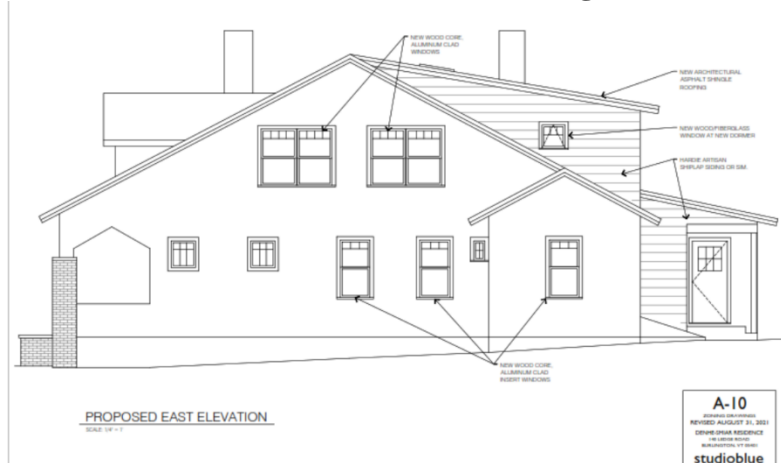
This is not an identified Brownfield on Vermont's DEC website. Not applicable.

(g) Provide for nature's events:

Special attention shall be accorded to stormwater runoff so that neighboring properties and/or the public stormwater drainage system are not adversely affected. All development and site disturbance shall follow applicable city and state erosion and stormwater management guidelines in accordance with the requirements of Art 5, Sec 5.5.3.

Design features which address the effects of rain, snow, and ice at building entrances, and to provisions for snow and ice removal or storage from circulation areas shall also be incorporated.

The new rear door will exit onto a covered porch, providing residents an element of protection from inclement weather. **Affirmative finding.**



(h) Building Location and Orientation:

The home will remain oriented toward Ledge Road. No change. **Affirmative finding.**

(i) Vehicular Access:

Vehicular access will continue from Edgewood Lane. **Affirmative finding.**

(j) Pedestrian Access:

There is an existing walkway from Ledge Road to the primary entrance, and a walkway from the driveway (Edgewood Lane) to a stone patio and entrance on the west. **Affirmative finding.**

(k) Accessibility for the Handicapped:

While not required for single family homes, accessibility is always encouraged.

(l) Parking and Circulation:

There is no change proposed to the existing parking layout. There is a long driveway that terminates at a garage; meeting all off-street parking requirements. **Affirmative finding.**

(m) Landscaping and Fences:

No landscaping or fence changes are proposed. There is an existing, permitted fence between the parking area and Edgewood Lane. **Affirmative finding.**

(n) Public Plazas and Open Space:

None required. Not applicable.

(o) Outdoor Lighting:

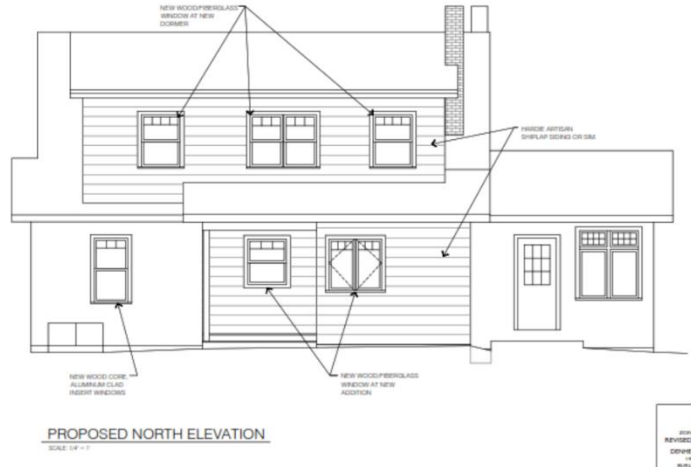
Where exterior lighting is proposed the applicant shall meet the lighting performance standards as per Sec 5.5.2.

There is no information within the application relative to changes in lighting. If new fixtures are proposed, specification sheets and illumination levels shall be provided to staff for review and approval. **Affirmative finding as conditioned.**

The small gable roofed rear dormer will be replaced with a modestly pitched shed roof; similar in elevation to the cascading plane of the existing principal rear roof. **Affirmative finding.**

3. Building Openings

Many of the windows on the east and west will be replaced with larger windows. The dormer windows on the Ledge Road (front) will also be replaced with egress-compliant but compatible replacement sash. A French door is introduced on the west elevation to access the existing patio. **Affirmative finding.**



(b) Protection of Important Architectural Resources:

Burlington's architectural and cultural heritage shall be protected through sensitive and respectful redevelopment, rehabilitation, and infill. Where the proposed development involves buildings listed or eligible for listing on a state or national register of historic places, the applicant shall meet the applicable development and design standards pursuant to Sec. 5.4.8. The introduction of new buildings to a historic district listed on a state or national register of historic places shall make every effort to be compatible with nearby historic buildings.

See Section 5.4.8.

(c) Protection of Important Public Views:

Not applicable.

(d) Provide an active and inviting street edge:

The appearance from Ledge Road will not change. The street view from Edgewood Lane, where perceivable, will continue to afford a warm and inviting presence. **Affirmative finding.**

(e) Quality of materials:

All development shall maximize the use of highly durable building materials that extend the life cycle of the building, and reduce maintenance, waste, and environmental impacts. Such materials are particularly important in certain highly trafficked locations such as along major streets, sidewalks, loading areas, and driveways. Efforts to incorporate the use of recycled content materials and building materials and products that are extracted and/or manufactured within the region are highly encouraged.

Owners of historic structures are encouraged to consult with an architectural historian in order to determine the most appropriate repair, restoration or replacement of historic building materials as outlined by the requirements of Art 5, Sec. 5.4.8.

Fiber Cement Ship Lap is proposed on the rear addition and dormer. These are differentiated from the stucco on the original home, and of sufficient durability for new construction.

There is no evidence on consultation with an architectural historian; however as replacement and new components, the proposal is sufficient to meet this standard. **Affirmative finding.**

(f) Reduce energy utilization:

All new construction shall meet the Guidelines for Energy Efficient Construction pursuant to the requirements of Article VI. Energy Conservation, Section 8 of the City of Burlington Code of Ordinances. **Affirmative finding as conditioned.**

(g) Make advertising features complementary to the site:

No signage is proposed. Not applicable.

(h) Integrate infrastructure into the building design:

See Section 6.2.2. (p) above.

(i) Make spaces secure and safe:

Construction shall observe all required building and life safety code as defined by the building inspector. **Affirmative finding as conditioned.**

Article 8: Parking

The parcel is compliant in providing two on site parking spaces for the single family residence. **Affirmative finding.**

Article 12: Variances and Appeals

Section 12.1.1 Variances

Use variances shall not be allowed under this ordinance. A variance from the provisions of this ordinance may be granted by the DRB, and a decision rendered in favor of the request for a structure that is not primarily a renewable energy resource structure, if all of the following facts are found and specified in its decision:

- (a) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning regulation in the neighborhood or district in which the property is located;*

140 Ledge Road was constructed in 1923; prior to enactment of zoning regulations and before the construction of 144 Ledge Road (1936.) Each has a discrete pre-existing setback from Ledge Road; with 144 set significantly off the public way. The 2007 zoning regulations provide direction on calculating Front Yard Setbacks that triggers the setback from the average of 2 adjoining parcels. 140 Ledge Road has only one abutting neighbor on the same side of the street: 144 Ledge. The result is a calculated front yard setback of approximately 150', far beyond the existing home at 140 Ledge. 140 Ledge Road has a property depth of only 139'11". A Variance from Front Yard Setback is a reasonable request to make improvements to this home.

Affirmative finding with Variance.



(b) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is, therefore, necessary to enable the reasonable use of property;

As the proposed additions fall within the allowable Front Yard Setback, and the property depth of 140 Ledge Road uniquely precludes meeting said setback, it would be impossible to meet the standards of the ordinance. **Affirmative finding with Variance.**

(c) The unnecessary hardship has not been created by the applicant;

The parcels are existing. The applicant has not created the circumstances. **Affirmative finding.**

(d) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare;

The Variance will not alter the essential character of the neighborhood or district, or impair the appropriate use and development of adjacent properties. **Affirmative finding.**

(e) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulation and from the municipal development plan; and that,

The requested variance will allow the homeowners to make reasonable improvements to their property without negative impact to the district or abutting property owners. In the context of the specific parcel, the additions are on the rear of the dwelling which is already developed.

Affirmative finding.

(f) The variance, if granted, will not result in either the extension of a non-complying situation or allow the initiation of a nonconforming use of land.

The variance, as requested, will not result in the extension of a non-complying situation or introduce a nonconforming use of land. The property will remain a single family home.

Affirmative finding.

Section 12.1.3 Filing a Request, Public Hearing and DRB Decision

A variance may be issued for an indefinite duration or only for a specified duration. The nature of the variance and any conditions attached to it shall be entered on the face of the zoning permit, or the zoning permit may simply note the issuance of the variance and refer to the written record of the variance for further information. All such conditions are enforceable in the same manner as any other applicable requirements of this chapter.

As 140 Ledge Road is an established, developed parcel, the variance for the Front Yard Setback will allow limited construction to occur in the rear of the dwelling. It is recommended that if this project does not advance, the variance expire with the timeline of the permit (3 years.) Any future requests may be heard under the regulations in effect at the time of application.

Affirmative finding as conditioned.

II. Conditions of Approval

1. This variance approval is for relief from the front yard setback requirement of **Table 4.4.5-3, Residential District Dimensional Standards.**
2. Per **Sec. 12.1.3, Filing a Request, Public Hearing, and DRB Decision,** this variance approval shall remain valid for the period of this zoning permit. If the project is not undertaken within the specified time limits of the zoning permit, the Variance shall expire.
3. If new lighting fixtures are proposed, specification sheets and illumination levels shall be provided to staff for review and approval.
4. All new construction shall meet the Guidelines for Energy Efficient Construction pursuant to the requirements of Article VI. Energy Conservation, Section 8 of the City of Burlington Code of Ordinances.
5. Standard Permit Conditions 1-15.

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